

Appl. No. 10/624,782
Amdt. dated September 23, 2005
Reply to Office action of March 24, 2005

Amendments to the Drawings

None.

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Remarks

Claim 1 has been amended and claims 2 and 5 have been canceled. Claims 1, 3, 4, and 6 through 9 remain pending in this application. The Applicant requests reconsideration of the rejections of claims 1, 3, 4, and 6 through 9 by the Action in view of the amendments to claim 1 and in view of the remarks set forth below.

Paragraph 3 of the Action rejects claims 1 - 4 and 6 - 9 under 35 U.S.C. §112 for omitting the asserted essential element of "encrypting the vote data by the acquisition and processing device prior to receiving and decrypting the vote date [sic: data] by the collection and processing system." The applicant disagrees that encryption by the acquisition and processing device is an essential element of applicant's invention. While the embodiment of the acquisition and processing device that is described by the application encrypts data, that encryption is not described as essential to applicant's invention. In addition, claim 1 is directed to a system that comprises two component systems: the acquisition and processing device and the collection and processing system. As presented, claim 1 did required a collection and processing system that is configured to decrypt data. That requirement does not exclude receiving data that is not encrypted, and does not impose any requirement that the acquisition and processing device encrypt data. Therefore, applicant disagrees that claim 1 as presented lacked an essential element.

Though applicant disputes the rejection of claim 1 under 35 U.S.C. §112, that claim has been amended to recite an acquisition and processing device that is also configured to encrypt

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data representing votes. That amendment is made without acquiescence to the rejection or prejudice to later presenting a claim not having that requirement.

Paragraph 5 of the action rejects claims 1 – 5, 7, and 9 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Publication 2002/0019797 to Babbitt et al. (“Babbitt et al.”). In particular, the Action rejected claim 2 which required that the acquisition and processing device transmit data representing votes responsive to requests received from the data processing network based on paragraphs 72 and 48 of Babbitt et al. That disclosure does not disclose transmitting data representing votes responsive to requests received from the data processing network. Rather, paragraph 72 describes an authentication step in which authentication may occur “interactively.” As is clear from paragraph 73, the interactive authentication described by paragraph 72 does not include transmitting vote data as voting does not occur until after authentication. Further, the interactive authentication is based on action by a voter, not responsive to a request from a data communication network. As is made clear by paragraph 48, vote data is not transmitted in response to a request from a data communication network, but rather in response to the voter’s action to cast a ballot. Babbitt et al. does not teach or suggest a system having a processing and acquisition device that transmits vote data in response to a request received from a data communication network.

Claim 2 has been canceled, and claim 1 has been amended to require that the acquisition and processing device transmit vote data in response to a request that is received from the data

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communication network. Claim 1 is therefore allowable for reciting the combination including that requirement. Claims 3, 4, and 6 through 9 all depend, directly or indirectly, from claim 1 and are allowable for at least that reason as well.

Conclusion

For the reasons set out above, and in view of the amendments to claim 1, the Applicant submits that the claims of this application, claims 1, 3, 4, and 6 through 9, are in condition for allowance. Allowance of those claims is requested. If the Examiner believes that a discussion of these claims would be useful, the Applicants request that the Examiner contact Applicants' undersigned attorney at (312) 775-8114. Please charge any additional fees or credit overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

Respectfully submitted,

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